

Message Text

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PAGE 01 MEXICO 12754 020158Z
ACTION SCS-05

INFO OCT-01 ARA-14 ISO-00 SCA-01 JUSE-00 DHA-02 H-02
L-03 INSE-00 NSC-05 /033 W
-----037255 020214Z /64
R 020148Z AUG 77
FM AMEMBASSY MEXICO
TO SECSTATE WASHDC 3928

UNCLAS MEXICO 12754

DEPARTMENT PASS JUSTICE, BUREAU OF PRISONS

E.O. 11652: NA
TAGS: CASC, MX
SUBJECT: IMPLEMENTATION OF US-MEXICO PRISON TRANSFER
TREATY - LEGAL ISSUES

REF: MEXICO 12753

1. DURING CONSULTATIONS REPORTED REFTEL, A NUMBER OF
LEGAL ISSUES AROSE INVOLVING PARTICULAR APPLICATION/
INTERPRETATION OF TREATY.

(A) ARTICLE II, PARA 4 - THE GOM REGARDS ALIEN SMUGGLING
AS IMMIGRATION OFFENSE FOR THE PURPOSES OF ARTICLE II OF
THE TREATY AND INDIVIDUALS CONVICTED FOR SUCH AN OFFENSE
WILL NOT BE ELIGIBLE FOR TRANSFER UNDER THE TREATY. U.S.
SIDE TENTATIVELY EXPRESSED AGREEMENT THIS INTERPRETATION
SUBJECT TO REVIEW BY THE DEPARTMENT.

(B) ARTICLE II PARA 5 - UNDER MEXICAN LEGAL SYSTEM WORK
CREDITS ARE EARNED BUT NOT VESTED UNTIL A STUDY IS MADE
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ON THE PRISONER IN PREPARATION FOR RELEASE. HENCE, SO FAR
AS GOM IS CONCERNED, THE SIX MONTH PROVISION WILL BE
APPLIED ON THE BASIS OF THE TIME ACTUALLY SPENT
INCARCERATED SUBTRACTED FROM THE SENTENCE IMPOSED, E.G.,
A PRISONER WITH A SIX-YEAR SENTENCE WHO HAS SERVED THREE
AND A HALF YEARS AND OBTAINED SLIGHTLY OVER TWO YEARS OF
WORK CREDITS WOULD BE ELIGIBLE FOR TRANSFER EVEN THOUGH

PRISONER COULD THEORETICALLY BE RELEASED IN MEXICO IN LESS THAN SIX MONTHS.

(C) ARTICLE II, PARA 6 - SPLITTING OF CASES. WE WERE INFORMED THAT CASES COULD NOT BE SPLIT ON THE MEXICAN LEGAL SYSTEM. THUS, IF A DEFENDANT HAS BEEN FINALLY SENTENCED BUT A CO-DEFENDANT APPLIES OR SUBMITS AN AMPARO, THIS WILL BLOCK THE TRANSFER OF THE OTHER DEFENDANT RR DEFENDANTS.

(D) ARTICLE VI - CONTRARY TO INFORMATION OBTAINED DURING NEGOTIATION OF TREATY, GOM NOW INDICATES THAT ONLY REMEDY AVAILABLE TO MODIFY OR SET ASIDE MEXICAN SENTENCES AFTER NORMAL APPEAL PROCESS EXHAUSTED IS ADMINISTRATIVE.

(E) DEPORTATION STATUS - PURSUANT TO A NUMBER OF PRISONERS' REQUESTS, THE ISSUE OF DEPORTATION STATUS WAS RAISED. AS IT PRESENTLY STANDS, GOM, ON BASIS OF "COMITY" WILL FOLLOW U.S. PRACTICE WHICH WAS EXPLAINED AS FOLLOWS: NATIONALS OF MEXICO TRANSFERRED UNDER THE TREATY WILL BE RECORDED AS HAVING VOLUNTARILY DEPARTED THE U.S., ABSENT A PENDING ORDER OF DEPORTATION OR EXPULSION.

2. EMBASSY SPECIFICALLY REQUESTS VIEWS OF DEPARTMENT AND JUSTICE ON HOW ARTICLES II: 4 AND 5, WILL BE APPLIED BY U.S. IF DIFFICULTIES PERCEIVED WITH ANY OF ABOVE,
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Message Attributes

Automatic Decaptioning: X
Capture Date: 01-Jan-1994 12:00:00 am
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: PRISONER EXCHANGE, AGREEMENTS, INTERGOVERNMENTAL COOPERATION
Control Number: n/a
Copy: SINGLE
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Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01-Jan-1960 12:00:00 am
Disposition Event:
Disposition History: n/a
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Enclosure: n/a
Executive Order: N/A
Errors: N/A
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Original Classification: UNCLASSIFIED
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TAGS: CASC, PGOV, MX, US
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